

MINUTES  
FOR THE MEETING OF THE  
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: March 20, 2002  
TIME: 9:00 am  
PLACE: DLNR Board Room  
Kalanimoku Bldg.

Commissioner Bruce Anderson called the meeting of the Commission on Water Resource Management to order at 9:23 a.m. Vice Chair Herbert M. Richards, Jr. was detained because of delayed flight. Vice-Chair Richards arrived at 9:28 am.

The following were in attendance:

**MEMBERS:** Dr. Bruce Anderson, Ms. Meredith Ching, Mr. Clayton Dela Cruz, Mr. Brian Nishida, Mr. Herbert Richards, Jr.

**STAFF:** Linnel Nishioka, Roy Hardy, Ryan Imata, David Higa, Charley Ice, Tiffany Mathias

**EXCUSED:** Mr. Gilbert S. Coloma-Agaran, Chair

**COUNSEL:** Linda Chow

**OTHERS:** Gordon Tribble, Delwyn Oki, Kapua Sproat, Moses Haia, David Barratt, Sharla Manley, Al Peterson, Wayne Wada, Richard Spencer

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties.

**1. Minutes of the February 27, 2002 meeting**

MOTION: (DELA CRUZ/NISHIDA)  
To approve the minutes.  
UNANIMOUSLY APPROVED.

**2. Old Business/Announcements by Deputy Director Linnel Nishioka**

On the 2002 legislative update, Deputy Director Nishioka stated that even on a very lean budget crisis the Commission's initial budget on the House portion looks good. Requests that were submitted were approved. Four of our temporary positions were made permanent. All of our CIP requests were approved; we asked for 3 monitor wells, including a well in Iao. The only cut that was made was the elimination of deputy directors that the House is

proposing. Our appurtenant rights bill is moving along well. It passed through the subject matter committee.

Tiffany Mathias, the newest member of the Commission staff was introduced. She is assigned to work with Dean Nakano of the Planning Branch.

**3. Cooperative Agreement with U.S. Geological Survey and Commission on Water Resource Management for Water Resource Investigations for Northeast Maui Streams**

PRESENTATION OF SUBMITTAL: Deputy Director Linnel Nishioka

RECOMMENDATIONS:

That the Commission approve the subject cooperative agreement between the Commission and the U.S. Geological Survey, and authorize the Chairperson to execute the appropriate documents.

Final contract execution shall be contingent upon receiving the Governor's approval in accordance with Executive Memorandum No. 01-06 and approval of the contract by the Department of the Attorney General.

TESTIMONIES:

Commissioner Ching recused herself from Item 3.

Mr. Gordon Tribble of the U.S. Geological Survey (USGS) gave a brief summary on the scope of work that is proposed for the Northeast Maui streams. Mr. Tribble stated that USGS will also provide information that Commission staff can use to establish instream flow standards. The technical information that will be provided can be used in the decision making process for the Commission.

Mr. Delwyn Oki started by saying that the problem that USGS is confronted with throughout the State is the competition for limited resource. Some of the uses included offstream uses for large-scale agriculture and domestic water supply. These clearly have to be balanced against some of the instream uses like the aesthetics and native species and also some of the native cultural practices.

The primary study location is the Northeast Maui area. For the past century, the ditch system has been used to transport water from the Northeast Maui coast towards the central isthmus area to irrigate sugarcane and also for domestic uses. The area that the study is being concentrated on is the area between Kolea and Makapipi Streams. These areas were chosen primarily because the streams in the area are gaining.

The objectives of the study are: 1) to assess the effects of diversions of flow characteristics of these perennial streams; 2) find out how the diversions are affecting water temperatures and 3) estimate the effects of flow restorations on habitat availability for native macro fauna.

First, USGS is planning to do reconnaissance surveys of all the streams within the study area. The reason for this is to identify if there are any anomalous gaining or losing reaches that special consideration must be given. This will come into effect in the hydrological analysis. Second, the USGS will want to assess factors that might affect some of the native macro fauna. This information will be used in the analysis.

There have been about 19 or 20 gages in operation since 1910. Some have been discontinued. Currently, 3 gages are in operation in the area. There is information for about 19 gages that can be used in the analysis. Also, at each site that historical data have been collected, flow statistics will be estimated.

The main objective of the study is to develop an integrated model of the hydrology and the ecology in the area. Part of the study is to survey the microhabitat and macro fauna abundance. USGS is planning to conduct a survey of four streams in the study area. A reconnaissance survey of all streams will be done but four representative streams in the area will be selected. At each of these four streams, studies will be at three reaches per stream. Each reach will be surveyed by cross sections. At each cross section, species present will be recorded and various microhabitat variables associated with the native species will be measured, including the depth of the native species, velocity of the water, and flow regimes. The kinds of habitat available within each reach will also be surveyed.

In terms of the macro habitat, partial record stations will be set up. To supplement streamflow measurements where historical data are available, discharge measurements will be taken at each one of the sites where macro fauna surveys are performed. There will be 10 to 12 discharge measurements at each one of the sites. Cross section geometry will also be surveyed. The streams may be subject to change depending upon information gathered in the reconnaissance survey.

On the effects of diversions on stream temperature, data logs will be set up in the stream for about a year or more. They will be installed both above and below the diversions and also near the mouth of the stream and will be recording temperatures on continuous basis. This will provide information on long term how the temperature varies with time and whether or not the diversions are affecting instream flow temperatures.

In terms of the native species, based on the surveys, USGS will be able to determine how the different species utilize different types of habitat. An example that Mr. Oki provided was the oopu and how they used different velocity regimes in the stream. In this analysis, the types of habitat species use under different discharge regimes will be determined. The habitat index will be developed which USGS will be able to relate to the discharge. The data gathered from the habitat rating curve and the flow duration curve will enable USGS to

develop a habitat duration curve. The habitat duration curve will plot the habitat index. Under various diversion scenarios, this will show how the habitat will vary.

In summary, the study will provide estimates of prediversion flows for streams in East Maui, assess the effects of diversions on flow characteristics and water temperature; and collect data on aquatic species abundance, distribution and habitat utilization. With this information, habitat duration curves under various flow scenarios will be developed. Lastly, tracks of flow restoration and habitat availability for the native macro fauna will be able to be estimated. This information provided the Commission staff would assist in developing interim instream flow standards for East Maui.

MOTION: (NISHIDA/ANDERSON)

To approve the submittal.

UNANIMOUSLY APPROVED.

**4. Hawaiian Marine Enterprises APPLICATION FOR A WATER USE PERMIT, HME-1 Well (Well No. 4157-12), TMK 5-6-002: 009, Future (Aquaculture) Use for 0.300 mgd, Koolauloa Ground Water Management Area, Oahu**

PRESENTATION OF SUBMITTAL: Ryan Imata

AMENDED RECOMMENDATIONS:

Staff recommends that the Commission:

1. Defer the consideration of the water use permit no. 467 to Hawaiian Marine Enterprises for the reasonable and beneficial use of 0.300 million gallons per day of potable water for aquaculture from the HME-1 Well (Well No. 4157-12), until for 45 days after the following are submitted:
  - a. ~~The HME-1 Well is drilled and pump tests are done in accordance with the Hawaii Well Construction and Pump Installation Standards and submitted to the Commission. Well Nos. 4157-08 through 10, and the Kii Wildlife Refuge Wells (4157-05 through 07) shall be used as monitor wells unless otherwise shown that they cannot be used,~~
  - a. Pump test in accordance with the Hawaii Well Construction and Pump Installation Standards. During the pump test, monitoring should be limited to those wells within 1,000 feet that are tapping the freshwater sources in the area.
  - b. ~~An NPDES permit is obtained.~~
  - b. Appropriate permits, if any, from the Department of Health.

## TESTIMONY BY APPLICANT:

Mr. Richard Spencer stated that the reason for the delay at that time was because HME was not ready to make a decision to invest in freshwater aquaculture until they decided it was economically feasible. Now that the facilities are underway, Mr. Spencer asked the Commission to reconsider deferral of the water use permit because he felt that there is no effect on the neighboring area on the use of the water.

Commissioner Anderson made a motion stating that during the pump test, monitoring should be limited to those wells within 1,000 feet that are tapping the freshwater sources in the area. Further, that appropriate permits be obtained from the Department of Health and that the applicant get the appropriate permits, if any, from the Department of Health. Commissioner Anderson stated an NPDES permit may not be required but other permits may be required by the Department of Health.

MOTION: (ANDERSON/NISHIDA)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

**5. Mr. David Barratt, Kahui Pono, LLC, After-the-Fact Application for a Stream Channel Alteration Permit (SCAP MA-330), Excavation /Bulldozing of Vegetation in Stream Channel, Honokala Stream, Makawao, Maui (TMK: (2) 2-9-02: 21 & 24)**

PRESENTATION OF SUBMITTAL: David Higa

## RECOMMENDATIONS:

That the Commission:

1. Find the applicant in violation of Hawaii Revised Statutes §174C-71 for grading and grubbing Honokala Stream without a stream channel alteration permit.
2. Impose a fine on the applicant for \$500 for the violation.
3. Warn the applicant that future alterations of stream channels by the applicant without the necessary stream channel alteration permit may be considered to be 'willful' violations subject to fines of up to \$1000 per each day for each violation pursuant to Hawaii Revised Statutes §174C-15.
4. Approve an after-the-fact stream channel alteration permit to Kahui Pono, LLC for grading and grubbing of Honokala Stream at parcels 2-9-02-21 and 24 subject to our standard conditions for after-the-fact stream channel alteration permits in Exhibit 3 and the following special conditions:

- a. “The applicant shall pay a fine of \$500 to the Commission within thirty (30) calendar days of the date of this Commission action.”
- b. “The applicant submits a copy of the County Grading Permit to the Commission within sixty (60) calendar days of this Commission action”

TESTIMONY BY APPLICANT:

Mr. David Barratt apologized to the Commission and accepted the staff recommendation.

MOTION: (DELA CRUZ/ANDERSON)

To approve the submittal.

UNANIMOUSLY APPROVED.

**6. Application for a Stream Channel Alteration Permit (SCAP KA-333), Mr. John Wells, Construct Two Roadway Crossings, Puu Ka Ele Stream, (TMK: 5-2-02: 11 & 12) Kilauea, Kauai**

PRESENTATION OF SUBMITTAL: David Higa

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit (SCAP-KA-333) to Mr. Wells to construct the two roadway crossings across Puu Ka Ele Stream, Kilauea, Kauai for property access. The permit shall be valid for two (2) years subject to our Standard Stream Channel Alteration Permit Conditions in Exhibit 5.

TESTIMONY BY APPLICANT:

Mr. Al Paterson, representing the owners of the property, thanked staff for their help and assistance in processing the permit. He stated that his client bought this property to stop over development. His client wants to preserve the land to enhance agriculture integrity. Approving the permit would enable the guava farmers to use the roadway in times of heavy rains and flooding.

Commissioner Nishida commended the efforts of Mr. Wells for his citizenship in the community of Kilauea.

MOTION: (ANDERSON/CHING)

To approve the submittal.

UNANIMOUSLY APPROVED.

**7. Kihei Akahi Condominium Association and Wailani Drilling Company AFTER-THE-FACT PUMP INSTALLTION PERMIT VIOLATIONS, Kihei Akahi Irrigation Well (Well No. 4327-07), Well Construction: 6-inch Casing Diameter, 110 ft. Deep Well, Pump Installation: 125 gpm for landscape irrigation use, TMK 3-9-2:1, 2531 South Kihei Road, Maui**

PRESENTATION OF SUBMITTAL: Charley Ice

RECOMMENDATIONS:

That the Commission:

- A. Find driller Wailani Drilling Company and permittee Kihei Akahi Condominium Association in violation of HAR §13-168-12(a) for installing a permanent pump without a permit.
- B. Find driller Wailani Drilling Company and permittee Kihei Akahi Condominium Association in violation of HAR §13-169-3 for violating a condition of the permit.
- C. Impose a fine of \$750 each, on Wailani Drilling Company and on Kihei Akahi Condominium Association for the violations in “A” and “B”, as summarized in Exhibit 5, payable within 30 days.
- D. Suspend action on any applications from Wailani Drilling, Inc. or Kihei Akahi Condominium Association until the fine in “C” is paid in full.

Deputy Director Nishioka stated that this submittal was deferred from the November 2001 meeting. Staff’s initial recommendation was substantially higher. Staff has subsequently had gathered more information and had meetings with Wailani Drilling to understand the circumstance of this matter.

MOTION: (NISHIDA/DELA CRUZ)

To approve the submittal.

UNANIMOUSLY APPROVED.

At 10:40 am the Commission entered into Executive Session to approve the Executive Session Minutes of February 27, 2002.

MOTION: (CHING/NISHIDA)

UNANIMOUSLY APPROVED MINUTES.

Minutes

March 20, 2002

This meeting was adjourned at 10:45 am.

Respectfully submitted,

FAITH F. CHING  
Secretary

APPROVED AS SUBMITTED:

LINNEL T. NISHIOKA  
Deputy Director